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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/970,891	10/04/2001	Laurie E. Gathman	US 010500	1900
24737	7590	08/17/2006	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			RUHL, DENNIS WILLIAM	
			ART UNIT	PAPER NUMBER
			3629	

DATE MAILED: 08/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/970,891		GATHMAN ET AL.	
	Examiner		Art Unit	
	Dennis Ruhl		3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 28,29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claims are reciting that the “public facility” informs the image capture device of the location of the virtual ticket device. It is not disclosed how the public facility can perform this step. How is this done? The public facility can be a stadium or an arena, so how can the stadium or the arena inform anybody/anything of the location? The arena or stadium is not a computer or a person and cannot possibly do what is claimed. Because the claimed step appears impossible to the examiner, the examiner has concluded that one of skill in the art trying to figure out how to make a stadium or an arena be intelligent and to inform on the location of a virtual ticket device, one would have to undergo undue experimentation. There may be technology at the public facility that would allow the claimed step to occur, but the public facility itself cannot do what is claimed.

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For claims 1,13,20, the scope of the term "virtual ticket device" is not clear. This is because of the fact that applicant has provided a specific definition for the term "virtual ticket device" that seems to contradict the claim language as well as contradicting another portion of the specification itself. The examiner notes that on page 5 of the originally filed specification, applicant stated "A virtual ticket device is a portable computer system that delivers virtual tickets for sports events, ...together with the various services and methods of doing business which are linked to and implemented through the virtual ticket device.". Then on page 6 applicant stated "the term "virtual ticket device" as used in this patent specification and the claims which follow, is not limited or restricted to a device which is actually used or even programmed to authorize a customer's admission to a facility". Applicant has claimed that the virtual ticket device is "for storing electronic tickets" but the definition set forth on page 6 states that when used in the claims the "virtual ticket device" does not have to be used or programmed to authorize admission. One wishing to avoid infringement would not understand what is required in the claim. Does the claimed virtual ticket device have to be able to store tickets that are used to grant admission or is the claimed virtual ticket device supposed to have the definition as set forth on page 6, which does not requires any

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ability to store tickets. One wishing to avoid infringement would now know what the scope of the claim is.

For claim 11, there is no antecedent basis for "the virtual ticket device owner". Who is this? Because it is not known who the owner is, one cannot determine whether or not they are infringing the claim.

For claim 22, there is no antecedent basis for "the virtual image device". What device is this? A virtual ticket device has previously been claimed but not a virtual image device. Is the virtual image device supposed to be the same device as the virtual ticket device? This is not clear.

For claim 25, there is no antecedent basis for "the stadium". What stadium has previously been claimed? Should this be "the public facility"?

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-6,8-18,20-25,27-29, are rejected under 35 U.S.C. 102(e) as being anticipated by Novais et al. (20030023452). Applicant should take notice that the claims have been examined with the definition from the specification in mind.

For claims 1,13,20,21, Novais discloses a method of doing business, which is the offering of photo imaging services to patrons attending a particular event. The providing of a ticket control system is interpreted to be the providing of the imaging system or controller 15. The control system 15 can communicate with virtual ticket devices, which are the interactive displays at the seats, see paragraph 36 where this is discussed. The control system 15 has a processor. A processor is inherently required to allow the system to operate. A processor is necessarily present in the control system 15; otherwise it would not work because there would be nothing controlling its operation. The interactive displays at the seats are considered to be the virtual ticket devices because the definition of that term does not require that the virtual ticket devices have anything to do with tickets and admission to the facility. The providing of a communication link (access point) to an image capture device is satisfied by the disclosure in paragraph 17, lines 18-19, that cameras (image capture device) are networked to the imaging system or controller 15. The step of transmitting an image display message to at least one virtual ticket device is satisfied by the transmission of images or options for the various photo packages offered for sale. The actual message itself is considered to be non-functional descriptive material that just describes the message. The message is not used in any further manipulative step, is purely descriptive; therefore, it is considered to be non-functional descriptive material.

For claims 2,14,20,27,28 (as best understood), it is disclosed that a customer can have their picture taken while they are in their seat. Paragraph 18 discusses this feature. When a customer is at their seat and they order a photo package from their

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seat by using the interactive displays at the seats (para. 36), the location of the virtual ticket device will inherently be determined. When you order a photo of yourself in your seat, and you use the interactive display at your seat, the system will inherently know your location as claimed so that the image can be taken.

For claim 3, see paragraph 36, where it is disclosed that images can be sent to the seat displays so that the customer can review the image from their seats. The image is sent by control system 15 as a message as claimed.

For claim 4, applicant has claimed the receiving of a request from the virtual ticket device, where the message is a request to reposition the image capture device. With respect to the request itself, any request made by the virtual ticket device satisfies what is claimed. The request to purchase an image satisfies what is claimed. With respect to the recitation that the message contains a request to reposition the image capture device, because this message is not used in any further manner in any further manipulative steps, the actual content of the message itself is considered to be non-functional descriptive material.

For claims 5,6,16, the providing of at least one image display device is satisfied by the display disclosed in paragraph 36. The display at the seat itself is capable of displaying the captured image and is disclosed as displaying the captured image for the customer to review.

For claim 8, the examiner views this claim as simply sending the captured image to the network because this is the only step recited. It is not recited that the image is displayed at any particular location. Only the sending of the image to the network is

claimed. This is found in the prior art because the network is used to send the images to the customer when in their seat.

For claim 9, a network is a network and the recitation of a broadcast network does not define over Novais. The network of Novais is considered a broadcast network because you can broadcast information or images to the interactive displays at the seats.

For claim 10, the accepting of an image package satisfies what is claimed. The acceptance (order for an image) is in response to an offer informing the customer of the image services that are available. Also, the choosing of a particular image is in response to an image display message (the sending of the image itself for review).

For claim 11, the customer has to pay a fee if they want to order an image. An authorization to charge the fee is inherent to the ordering of an image. The examiner notes that no actual fee is being claimed as being charged and that no actual display of anything is being recited.

For claims 12,15, for the interactive seat displays to be able to operate and communicate with the control system 15, they must necessarily contain a user interface (software). This is necessarily required. That software had to be downloaded to the interactive displays at some point so it has been provided as claimed. The examiner notes that this claim does not even require any downloading, just providing of the interface.

For claim 17, a database to store the pictures is considered to be inherent. This is because it is disclosed that multiple images can be taken, and then sent to the

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customer so that they can select which ones they want. This inherently requires that the images be saved so that the potential customer can review them after they have been taken. Also, because the system is taking photos or images, it necessarily follows that they are stored in some manner. You cannot have a photo without storing it either on disk or on a hard drive of some kind.

For claim 18, all that is claimed is a network, which is disclosed by Novais. The recitation “for displaying captured images...” is directed to the intended manner of using the claimed system, which defines no structure to the system not found in Novais. The control system 15 is in communication with a network, so it is also fully capable of sending an image via the network to another device. Where that device is located is not reciting any further structure to the system.

For claim 22, the claimed “virtual image” is satisfied by the images taken in Novais. This is because they are displayed on either a kiosk or a display screen at an individual seat (i.e. a computer network environment). The examiner considers the images of Novais to be “virtual” because they are stored in a computer format and are not real photos until they have been printed. The images in Novais are virtual images as claimed.

For claim 23, the photo is given to the customer upon completion of the sale. The photo can be delivered in more than one manner but is given to the customer as claimed.

For claims 24,25, when you purchase an image, you can view it at your seat by using the interactive display that is located at your seat. This is a broadcasting of the image that occurs within the stadium.

For claim 29, it is disclosed that a message is transmitted to the customer indicating the time when the images will be taken . Paragraph 32 discloses that the images of the customer can be taken at a predetermined time so that it can be ensured that the customer will be in their seats. It is stated that "A particular time may be noted as the time of capture for the entire area" and also disclosed is that "an indication of time of capture may be provided on the scoreboard or other means". This satisfies what is claimed.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 7,19,26, are rejected under 35 U.S.C. 103(a) as being unpatentable over Novais et al. (20030023452).

For claims 7,19, Novais discloses the invention substantially as claimed. Not disclosed is that the image is enhanced prior to displaying the image. The examiner notes that it is old and well known in the art of photo/image processing to enhance images to improve the quality of the image. The examiner takes official notice of the fact that many software applications are available (i.e. Adobe Photoshop) that allow a person to enhance and improve an image. The software can remove red eye from people, lighten up dark areas of the image, crop an image, etc.. This is old and very well known in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to enhance the captured image prior to displaying it by using photo enhancement software (enhancement facility), so that the displayed image looks as good and it can be, so that the customer is enticed to purchase the photo.

For claim 26, it is not disclosed that the image is broadcast to home viewers of the event. Because the images have been purchased for the purpose of having a memory of the day and the event one attended, it would have been obvious to one of ordinary skill in the art at the time the invention was made to broadcast (to show) the images to friends and others that have watched the event at home so that you can be proud of your images and relive your memories with your friends and acquaintances.

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This claim reads on the showing of the images to others who have watched the event at home.


8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ueno et al. (20010051915), Doi et al. (6809631), Stone et al. (6738750), Inselberg (6996413 ; 6,434,398) are considered relevant to the instant invention.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis Ruhl whose telephone number is 571-272-6808. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



DENNIS RUHL
PRIMARY EXAMINER